

**PRE-DECREE
TEMPORARY ORDERS
WITHOUT NOTICE
FOR CHILD CUSTODY**

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**TO GET PRE-DECREE TEMPORARY ORDERS
WITHOUT ADVANCE NOTICE TO THE OTHER PARTY**

Part 1: Completing and Filing the Court Papers

Forms and Instructions



SELF-SERVICE CENTER
PRE-DECREE
TEMPORARY ORDERS WITHOUT NOTICE
FOR CHILD CUSTODY
COMPLETING AND FILING THE COURT PAPERS

Notice: You must complete and file papers for temporary orders *WITH* notice before the Court can consider a Petition for Temporary Orders *Without* Notice.

This packet contains court forms and instructions for filing a request for “*Temporary Orders Without Notice*.” The documents should appear in the following order:

Order	File Number	Title	# Pages
1	DRTE1t	Table of forms in this packet (this page)	1
2	DRTE1k	Checklist: <i>You may use these forms if . . .</i>	1
3	DRTE11i	Instructions: How to Fill Out the “ <i>Motion</i> ” and “ <i>Order</i> ” for Temporary Orders Without Notice	2
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PRE-DECREE
“TEMPORARY ORDERS WITHOUT NOTICE”
CHECKLIST**

1. You must file papers for temporary orders with notice before the Court can consider a request for temporary orders without notice.
2. Before you can file papers for temporary orders with notice, one of the parties (either one) must file papers for divorce, legal separation or annulment, or to establish custody (or custody combined with paternity, visitation, and/or support).

You may use these forms if . . .

- ✓ You have already filed, or at the same time you file these papers you will be filing, a petition for:
 - divorce, legal separation, or annulment, or
 - to establish child custody or parenting time (“visitation”), AND
 - a “Motion for Temporary Orders With Notice”, OR
- ✓ If the *other party* filed the petition, you have already filed or at the same time you file these papers you will be filing a “**Motion for Temporary Orders**” with notice. AND
- ✓ Someone is about to cause serious, immediate bodily harm to another person, or the health, safety, and welfare of a person is otherwise in serious and immediate jeopardy, AND
- ✓ You can give very specific facts about:
 - what the emergency is,
 - why the judge should hear your case before everyone else who has been waiting to see a judge,
 - why the situation is so serious that the Court should take someone’s child(ren) away without providing:
 - ♦ advance notice explaining why, or
 - ♦ opportunity for the person to defend his or her rights to the child(ren), and
- ✓ You are prepared to post a bond to pay for any costs this court action causes if it turns out that what you said is not true, or the judge does not agree with you.

WARNING. If your “**Motion for Temporary Orders Without Notice**” is turned down at one Superior Court location, you may not use these forms to re-file your request at another location.

READ ME: Before filing documents with the Court, consult a **lawyer** to help guard against undesired and unexpected consequences. The Self-Service Center has a list of lawyers who can give you legal advice and who can help you on a task-by-task basis for a fee, and a list of court-approved mediators as well. You may view the lists at the Self-Service Centers or from our web site at: <http://www.superiorcourt.maricopa.gov/ssc/provider/lawyers.asp>

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INSTRUCTIONS: HOW TO FILL OUT THE “MOTION” AND “ORDER” “FOR TEMPORARY ORDER WITHOUT NOTICE”

WRITE NEATLY. USE BLACK INK.

STEP 1: Complete the “Motion for Temporary Order without Notice”.

- Fill in the information requested about you at top, left, and the case caption. The names of the Petitioner and Respondent should be the same as on the Petition for Dissolution, Legal Separation, Annulment, Custody or Parenting Time (“visitation”).
- Check the box to say whether you are asking for anything other than or in addition to a “Temporary Order Without Notice For Custody”, and write in your request.

Match the numbered instruction below to the matching number on the form.

1. Print your name as the person asking for the “Temporary Order Without Notice”.
2. **REASONS WHY I NEED THIS ORDER.** Write in the reasons why you need this order. Explain the reasons in detail and be very specific. Use additional paper if necessary. Explain the emergency facts that now exist and what **irreparable injury** you fear could occur without this Order. An “irreparable injury” is one that cannot be “repaired”, a serious or life-threatening injury or damage to your or the children that cannot be prevented or undone. If you have questions about whether you should request a temporary order without notice, see a lawyer for help.
3. **PEOPLE INVOLVED.** Write in the name of the mother, father, other people (such as legal guardians or others who claim custody or have possession of the children), the name(s) of the children and the children’s ages.
4. **IMPORTANT! REQUIRED INFORMATION: YOU MUST CHECK ONE OF THE BOXES UNDER #4 TO INDICATE WHETHER YOU GAVE OR ATTEMPTED TO GIVE NOTICE OF THIS REQUEST (Motion) TO THE OTHER PARTY (or parties), AND EXPLAIN.**
IF YOU DID NOT GIVE OR ATTEMPT TO GIVE NOTICE OF THIS MOTION, YOU MUST EXPLAIN WHAT IRREPARABLE INJURY (SERIOUS OR LIFE-THREATENING INJURY OR DAMAGE TO YOU OR THE CHILDREN THAT CANNOT BE PREVENTED OR UNDONE) WOULD RESULT FROM GIVING ADVANCE NOTICE OF THIS MOTION TO THE OTHER PARTY (or parties).
5. **MOTION FOR TEMPORARY ORDERS.** You cannot file this “Motion for Temporary Orders Without Notice” unless you have filed or you are filing a regular “Motion for Temporary Orders With Notice”. Write in the date you filed or will be filing the motion **with notice**.

6. **DIVORCE OR OTHER PETITION.** You cannot file this “*Motion for Temporary Orders Without Notice*” unless you or the other party has already filed (or you are now filing) a petition for divorce, legal separation, annulment, or other petition that includes custody. Check the box to show which petition was or will be filed, and write in the date the petition was or will be filed.
7. **INFORMATION ABOUT OTHER EMERGENCY CASES INVOLVING THE PARTIES OR THE CHILDREN.** Check the boxes that apply and then write in the information requested.
8. **OTHER COURT CASES INVOLVING EITHER OR BOTH PARTIES.** Describe all other court cases that involve either or both of the parties, whether pending or not, including criminal cases. Complete all the information for each court order. Use extra paper if necessary.
9. **ANY OTHER GOVERNMENT AGENCY INVOLVEMENT WITH EITHER OR BOTH THE PARTIES, OR CHILDREN.** State whether there have been or are any complaints with or investigations by any government agency, including Child Protective Services, involving the parties or the child(ren). If so, explain the agency, date, type of case, and status of case right now.
10. **CRIMES OF EITHER PARTY:** Explain here if either parent or people involved with this Petition have been charged with committing a dangerous crime including child molestation or domestic violence.

REQUESTS TO THE COURT:

1. Check the boxes that apply to request custody, or write in any other emergency orders that you think you need.
2. Then sign the document in front of a deputy clerk of court or a notary public. The clerk or notary public will date and sign the document too.

STEP 2: Complete *only* the top portion of the “*TEMPORARY ORDER WITHOUT NOTICE*”: Fill in the information in the case caption. This includes the name of the Petitioner, the Name of the Respondent, and the Case Number. The name of the Petitioner should be the same as the Name of the Petitioner in the Petition for Dissolution, or Legal Separation, or Annulment, or Custody or Parenting time. The “*Temporary Order Without Notice*” is the document the Judge will sign if he or she agrees that an order must be issued right away, without giving any advance notice to the other party. **THIS IS VERY RARE.**

A NOTE ABOUT NOTICE

The law requires advance notice of an action affecting one’s rights concerning one’s children unless there is a very good reason not to, such as fear of death or bodily harm to yourself or someone else.

The forms in this packet are to request temporary orders WITHOUT NOTICE, which means you are asking the Court to issue an order taking away someone’s children without giving them advance notice or the opportunity to defend against or deny the accusations that caused the Court to issue the order.

This is a very serious matter. The Judge will not grant the “*Temporary Order Without Notice*” unless you have a very good reason that immediate and irreparable injury, loss, damage or death will result if you give notice to the other party.

Person Filing: _____
 Address: _____
 City, State, Zip Code: _____
 Daytime/Evening Telephone: _____ / _____
 ATLAS Number (if applicable): _____
 Attorney Bar Number (if applicable): _____
 Representing ☐ Self, Without a Lawyer or
 Attorney for ☐ Petitioner or ☐ Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

Case Number: _____

Name of Petitioner

MOTION FOR PRE-DECREE TEMPORARY ORDER WITHOUT NOTICE FOR CHILD CUSTODY

☐ Other: _____

Name of Respondent

I MAKE THE FOLLOWING STATEMENTS TO THE COURT UNDER OATH OR AFFIRMATION:

1. **MY NAME IS:** _____
(Name of Person asking for Emergency Order)

2. **REASONS WHY I NEED THIS ORDER.** Explain in detail the emergency facts which now exist, and what irreparable injury (serious or life-threatening injury or damage that cannot be prevented or undone) to you or the child(ren) that might occur without this Order (Use additional paper if necessary).

☐ Check here if continued on attached page(s).

3. **PEOPLE INVOLVED.** This Motion concerns the following people:

Name of Mother: _____
 Name of Father: _____
 Name of Other Person: _____
 Name of Other Person: _____
 Name(s) of Children: _____

4. REQUIRED INFORMATION: NOTICE OR REASONS WHY NOTICE NOT ATTEMPTED.

Actual Notice regarding a request that affects another party's rights concerning his or her children is normally required. Check the box to indicate whether you gave or attempted to give notice to any other parties or their attorneys.

☐ **I GAVE or ATTEMPTED TO GIVE NOTICE TO THE OTHER PARTY AS FOLLOWS:**

Explain when, how, and to whom you attempted to give notice.

OR,

☐ **I DID NOT ATTEMPT TO GIVE NOTICE BECAUSE:**

If you checked this box you **MUST** explain what injury, loss or damage you or the child(ren) would suffer if you gave the other party advance notice of this Motion. (Use additional paper if necessary).

☐ Check here if continued on attached page(s).

5. MOTION FOR TEMPORARY ORDERS WITH NOTICE: I filed a "***Motion for Temporary Orders with Notice***" on (date) _____ in the Superior Court of Arizona in Maricopa County. I have attached a copy of it to the Judge's/Commissioner's copy and the other party's copy of this Motion. (You cannot file this "***Motion for Temporary Orders Without Notice***" unless you filed or are filing a "***Motion for Temporary Orders with Notice.***")

6. DIVORCE OR OTHER PETITION: You cannot file this "***Motion for Temporary Orders Without Notice***" unless you or the other party has already filed or you are filing one of the following petitions:

A. I or the other party filed in the Superior Court in Maricopa County a (check one box)

- ☐ "***Petition for Divorce, or Legal Separation, or Annulment***"
☐ "***Petition for Paternity, and Custody***"
☐ "***Petition for Custody/Parenting Time***" (where paternity and/or support already established)

B. Date Petition was filed: _____.

7. INFORMATION ABOUT OTHER EMERGENCY CASES INVOLVING THE SAME PARTIES OR CHILDREN: Check the boxes that apply and write in the information requested.

- ☐ **Current emergency cases:** To the best of my knowledge, there are no pending proceedings for emergency orders about these children in any other court. (If this is *not* a true statement, this Court may not be able to enter an Order and you may want to consult a lawyer for advice.)
- ☐ **Past emergency cases:** Either or both parties have filed for emergency court orders in the past. (If so, complete the following information. Use additional paper if necessary.)

Case No. _____

Names of Parties: _____

Date of Order, Judgment, Dismissal, etc.: _____ Case No. _____

Location of court (city and state): _____

Explain Type of Case: (Juvenile, Criminal, Order of Protection, etc.) _____

Explain what order or judgment said, or basis for dismissal: _____

8. ALL OTHER COURT CASES INVOLVING EITHER OR BOTH OF THE PARTIES:

Describe all other court cases that involve either or both of the parties, whether pending or not, including criminal cases. Complete all the information for each court order (use extra paper if necessary).

Names of Parties: _____

Date of Order, Judgment, Dismissal, etc.: _____ Case No. _____

Location of court (city and state): _____

Type of Case: (Juvenile, Criminal, Order of Protection, etc.) _____

Explain what order or judgment said, or basis for dismissal: _____

Status of Case Now:

☐ Final Order Entered; Case is Over. Date Order/Judgment signed: _____

☐ Hearing Date Set On (date): _____ at (time): _____

Location/address: _____

☐ Other (explain in detail): _____

9. ANY OTHER GOVERNMENT AGENCY INVOLVEMENT WITH EITHER OR BOTH THESE PARTIES, OR THESE CHILDREN:

State whether there have been or are any complaints with or investigations by any government agency, including Child Protective Services, involving the parties or the child(ren). If so, explain the agency, date, type of case, and status of case. _____

Case No. _____

10. CRIMES OF ANY PARTY: Explain here if any party involved with this case has been charged with committing a **dangerous crime** including child molestation or domestic violence:

I MAKE THE FOLLOWING REQUESTS TO THE COURT:

1. For a “Temporary Order Without Notice” as follows: Check the boxes that apply:

☐ Awarding me Temporary Custody of the child(ren) until a full court hearing.

☐ Other (explain): _____

2. For a court hearing when the parties can testify about the facts related to this **“Motion for a Temporary Order Without Notice”** and the **“Motion for Temporary Orders,”** so that the judge can decide whether to continue or modify the terms of the Emergency Order.

3. For any other order that is in the best interests of the minor children named above.

OATH OR AFFIRMATION AND VERIFICATION

I swear or affirm that the information on this document is true and correct under penalty of perjury.

Signature

Date

Sworn to or Affirmed before me this:

(date)

by _____

My Commission Expires: _____

Deputy Clerk or Notary Public

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

Name of Petitioner

Case Number: _____

TEMPORARY ORDER WITHOUT NOTICE FOR CHILD CUSTODY (PRE-DECREE)

Name of Respondent

☐ Other: _____

**THIS IS AN IMPORTANT COURT ORDER THAT AFFECTS YOUR RIGHTS. READ CAREFULLY.
IF YOU DO NOT UNDERSTAND THIS ORDER, CONTACT AN ATTORNEY FOR LEGAL ADVICE.**

THE COURT FINDS:

1. INFORMATION ABOUT PETITIONS.

A “**Petition**” for “**Dissolution of Marriage**”, “**Legal Separation**”, “**Paternity with Custody/Visitation**” or “**Custody/Visitation**” where paternity already established, was filed on this date by this person:

_____ by _____

A “**Motion for Temporary Order With Notice**” was filed on this date by this person:

_____ by _____

A “**Motion for Temporary Order Without Notice**” was filed on this date and by this person:

_____ by _____

The Court read the Motion, took testimony if relevant, considered all matters and issues a temporary order without notice.

2. EMERGENCY SITUATION. The court has found that an emergency exists and this order must be entered immediately to avoid irreparable harm because:

- ☐ Someone is about to cause serious bodily harm to another person immediately, OR
- ☐ The health, safety, and welfare of a person is otherwise in serious and immediate jeopardy as follows (describe):

Case No. _____

3. BEST INTEREST OF THE CHILDREN. This order is made in the best interest of the children whose names and dates of birth (month/day/year) are listed below:

Name _____	Date of Birth _____
Name _____	Date of Birth _____
Name _____	Date of Birth _____
Name _____	Date of Birth _____
Name _____	Date of Birth _____

THE COURT ORDERS:

1. ☐ **TEMPORARY CHILD CUSTODY WITHOUT NOTICE is awarded**

To: _____ as follows: _____

2. ☐ **OTHER TEMPORARY ORDERS WITHOUT NOTICE:** _____

3. ☐ **THIS ORDER SHALL CONTINUE until:** (date) _____ unless extended by the court, or by agreement between the parties in writing and filed with this court.

4. ☐ **SERVICE AND NOTICE TO THE OTHER PARTY:**

The person who requested this Order shall personally serve or give actual notice to the other party by serving a copy of this Order.

5. ☐ **BOND** in the amount of \$_____ shall be posted with the Clerk of the Court no later than this date: _____ and this time: _____ as security for the payment of costs and damages that may be incurred or suffered by any party as a result of this Order should it be determined the basis of this Order was false or without merit. Bond shall be posted by: (Name(s))

_____.

DONE IN OPEN COURT: _____
(Date)

JUDGE/COMMISSIONER

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PROCEDURES: MOTION FOR TEMPORARY ORDERS WITHOUT NOTICE

- ◆ You must not file a ***“Motion for Temporary Order without Notice”*** solely to get an earlier court hearing, or to harass the other party or the court, or to cause unnecessary delay of court proceedings.
- ◆ If the Judge finds that you filed this ***“Motion”*** without a very good legal reason, the Judge may find you in contempt of court, order payment of money to the court *or to the other party* for costs or damages resulting from the wrongful filing of this ***“Motion”***, or other consequences.
- ◆ If you have filed a ***“Motion for Temporary Order Without Notice”*** at one Superior Court location, and a Judge or Commissioner has denied your request, you may not use these forms to file another ***“Motion for Temporary Order without Notice”*** at one of the other Superior Court locations. If you have questions, you should see a lawyer for help.

STEPS TO REQUEST TEMPORARY ORDERS WITHOUT NOTICE.

1. You must file papers for temporary orders with notice before the Court can consider a request for temporary orders without notice.
2. Before you can file papers for temporary orders *with* notice, one of the parties (either one) must file papers for divorce, legal separation or annulment, or to establish custody (or custody along with paternity, visitation, and/or support.

STEP 3: Complete the ***“Motion for Temporary Order Without Notice”***.

STEP 4: **Make copies of all the paperwork.** Make 3 copies of ***“Motion”*** and ***“Order”*** forms. Assemble the copies so that you have 4 SETS of PAPERS: One set of originals and 3 sets of the copies.

STEP 5: **File the papers at the court.** Take the **original and 3 sets of copies** to the Clerk of the Court filing counter.

WHAT THE CLERK WILL DO: The Clerk will file the original of the ***“Motion for Temporary Order Without Notice”***. The Clerk will give you back clerk-stamped copies of the documents to show the documents were filed. The Clerk will then direct you to Family Court Administration or to the Judge who will hear your case.

STEP 7: **What the Judge will do:** The Judge will look over the ***“Motion for Temporary Order Without Notice”***. The Judge may sign the ***“Temporary Order Without Notice”***, deny your motion, OR schedule a court hearing.

STEP 8: **Serve the court papers.** If the Judge issues the temporary order without notice and/or schedules a hearing, you must provide the other party with a full set of the court papers.

STEP 9: **The court hearing:** If the Judge schedules a hearing, be sure to write down the date, time and place of the court hearing, and come to the hearing. Be prepared to present your evidence about why the Judge should sign your Order.

DO NOT BRING CHILDREN TO COURT.